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2. The following material facts, although not admitted, will not be contested at trial by evidence to the contrary:

3. The following issues of law are uncontested and stipulated to by the parties:

D. CONTESTED ISSUES OF FACT AND LAW

1. The following are the material issues of fact to be tried and decided: (Each issue of fact must be stated separately and in specific terms. Each party's contention must be set forth with respect to each and every issue of fact.)

E.g., Issue # 1: Whether Plaintiff used due care.

Plaintiff Contends: Plaintiff looked both ways before crossing street

Defendant Contends: Plaintiff ran out into the street without looking

2. The following are the issues of law to be determined: (Each issue of law must be stated separately in specific terms. Each party's contention must be set forth with respect to each and every issue of law.)

E.g., Issue # 1: Whether Plaintiff's suit is barred by the doctrine of laches.

Plaintiff Contends: . . .

Defendant Contends: . . .

Each party shall file a short trial brief on all contested issues of law contemporaneously with the filing of the Proposed Final Pretrial Order.

E. LIST OF WITNESSES

Each party shall separately list the names of witnesses, their addresses, whether they are fact or expert witnesses, and a brief description of the testimony of each witness. The witnesses shall be grouped as follows: (a) witnesses who shall be called at trial; (b) witnesses who may be called at trial; and (c) witnesses who are unlikely to be called at trial. Additionally, the parties shall include the following text in this section of the Proposed Final Pretrial Order: "Each party understands that it is responsible for ensuring that the witnesses it wishes to call to testify are subpoenaed. Each party further understands that any witness a party wishes to call shall be listed on that party's list of witnesses; the party cannot rely on the witness having been listed or subpoenaed by another party."

F. LIST OF EXHIBITS

1. The following exhibits are admissible in evidence and may be marked in evidence by the Clerk:

a. Plaintiff's Exhibits:

b. Defendant's Exhibits:

2. As to the following exhibits, the parties have reached the following stipulations:

a. Plaintiff's Exhibits:

b. Defendant's Exhibits:

3. As to the following exhibits, the party against whom the exhibit is to be offered objects to the admission of the exhibit and offers the objection stated below:

a. Plaintiff's Exhibits: (E.g., City Hospital records of Plaintiff from March 6, 1985 through March 22, 1985. Defendant objects for lack of foundation because . . . (the objection must specify why there is a lack of foundation.))

b. Defendant's Exhibits: (E.g., Payroll records of Plaintiff's employer which evidence payment of Plaintiff's salary during hospitalization and recovery. Plaintiff objects on grounds of relevance and materiality because ... (the objection must specify why the exhibit is not relevant or material.))

If there are more than 20 exhibits, the parties shall submit their exhibit lists in writing, five days before trial, in a format to be designated by the Court at the Final Pretrial Conference, in WordPerfect® 9.0 format either by email to Kelly_Branding@azd.uscourts.gov or on an IBM-compatible computer disk.

4. The parties shall include the following text in this section of the Proposed Final Pretrial Order: "Each party hereby acknowledges by signing this joint Proposed Final Pretrial Order that any objections not specifically raised herein are waived."

G. DEPOSITIONS TO BE OFFERED

The parties shall list the depositions that may be used at trial. The portions to be read or submitted at trial shall be identified by page and line number. Additionally, the party

1 offering the deposition shall provide the Court with a copy of the offered deposition
2 testimony. The offering party shall highlight, in color, the portions of the deposition to be
3 offered. If multiple parties are offering the same deposition, only one copy of such
4 deposition shall be provided. Such copy shall contain each party's highlighting (each party
5 should use a different color).

6 Any party objecting to the admission in evidence of any portion of a deposition shall
7 identify by page and line number the portion to which objection is made and shall state the
8 grounds of objection specifically.

9 Additional parts of a deposition which a party requests under Fed.R.Civ.P. 32(a)(4)
10 to be considered with the part introduced by an opposing party shall be identified by page
11 and number line and shall be highlighted in the requesting party's color.

12 The parties shall include the following text in this section of the joint Proposed Final
13 Pretrial Order: "Each party hereby acknowledges by signing this joint Proposed Final
14 Pretrial Order that any deposition not listed as provided herein will not be allowed, absent
15 good cause."

16 **H. MOTIONS IN LIMINE**

17 Motions in limine shall be filed as separate pleadings *and responded to in accordance*
18 *with the instructions contained in the Order Setting Final Pretrial Conference.*

19 **I. LIST OF PENDING MOTIONS**

20 List all pending motions.

21 **J. PROCEDURES FOR EXPEDITING TRIAL**

22 The parties shall discuss and report on all available procedures that might be used to
23 expedite trial, including but not limited to (a) presenting stipulated summaries of deposition
24 testimony rather than reading deposition excerpts; (b) editing videotaped depositions to limit
25 the amount of time required for presentation; (c) using summary exhibits in place of
26 voluminous documentary evidence; (d) stipulations on authenticity and foundation; (e)
27 presenting direct expert testimony through summary or written reports; (f) using the
28 courtroom technology to expedite the presentation of evidence. The parties are invited to

1 contact Sandra Fredlund, Judge Wake's Courtroom Deputy Clerk, to arrange a time to visit
2 the courtroom and examine its technology. Information about courtroom technology can also
3 be found at www.azd.uscourts.gov under Judicial Officer Information.

4 **K. ESTIMATED LENGTH OF TRIAL**

5 _____ hours for opening statements and closing arguments

6 _____ hours for Plaintiff(s) case, including cross-examination of other parties'
7 witnesses

8 _____ hours for Defendant(s) case, including cross-examination of other parties'
9 witnesses

10 _____ hours for Plaintiff(s) rebuttal

11 _____ TOTAL ESTIMATED TIME

12 **L. JURY DEMAND**

13 If a jury trial has been requested, indicate the appropriate selection:

- 14 1. The parties stipulate that the request was timely and properly made;
15 2. The Plaintiff/Defendant contends that the request was untimely
16 made because . . . (explain why request was untimely); or
17 3. The Plaintiff/Defendant contends that although the request for trial
18 by jury was timely, the request is otherwise improper as a matter of law
19 because . . . (indicate the legal basis for why a jury trial is improper).

20 **M. JOINT STATEMENT OF THE CASE**

21 The parties shall file a joint statement of the case that will be read to the jury and
22 included in the jury questionnaire, if one is used.

23 **N. JOINT PROPOSED VOIR DIRE QUESTIONS**

24 The questions shall be drafted in a neutral manner. The parties shall specify whether
25 the proposed voir dire questions are to be added to the Court's standard questionnaire or
26 asked by the Court orally in court.

27 **O. JOINT PROPOSED JURY INSTRUCTIONS**

28 The proposed jury instructions shall be accompanied by citations to legal authority.

1 The instructions shall be in accordance with "*Guidelines for Jury Instructions in Civil Cases*"
2 found at www.azd.uscourts.gov under Judicial Officer Information and Judge Wake.

3 **P. PROPOSED FORMS OF VERDICT**

4 The proposed forms of verdict shall include any proposed special verdict forms or
5 juror interrogatories.

6 **Q. DISAGREEMENTS ABOUT PROPOSED STATEMENTS, VOIR DIRE,
INSTRUCTIONS, OR FORMS OF VERDICT**

7 If the parties disagree about any of the proposed statements, voir dire questions, jury
8 instructions, or forms of verdict, the party in favor of the proposal shall set it forth in the joint
9 pleading and the party opposing it shall state the reason for the objection and offer an
10 alternative proposal.

11 **R. FORMAT OF SUBMISSIONS**

12 The joint statement of the case, proposed voir dire questions, proposed jury
13 instructions, and forms of verdict shall be submitted in WordPerfect® 9.0 format either by
14 email to Kelly_Branding@azd.uscourts.gov or on an IBM-PC compatible disk.

15 **S. CERTIFICATIONS**

16 The parties shall include the following text in this section of the Proposed Final
17 Pretrial Order: "The undersigned counsel for each of the parties in this action do hereby
18 certify and acknowledge the following:

- 19 1. All discovery has been completed.
- 20 2. The identity of each witness has been disclosed to opposing counsel.
- 21 3. Each exhibit listed herein: (1) is in existence; (2) is numbered; and (3)
22 has been disclosed and shown to opposing counsel.
- 23 4. The parties have complied in all respects with the mandates of the
24 Court's Rule 16 Scheduling Order and Order Setting Final Pretrial
25 Conference.
- 26 5. The parties have made all of the disclosures required by the Federal
27 Rules of Civil Procedure (unless otherwise previously ordered to the
28 contrary).

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6. The parties acknowledge that once this Proposed Final Pretrial Order has been signed and lodged by the parties, no amendments to this Order can be made without leave of Court."

T. INFORMATION FOR COURT REPORTER

In order to facilitate the creation of an accurate record, please file a "Notice to Court Reporter" one week before trial containing the following information that may be used at trial:

- 1. Proper names, including those of witnesses.
- 2. Acronyms.
- 3. Geographic locations.
- 4. Technical (including medical) terms, names or jargon.
- 5. Case names and citations.

Please also send (or transmit electronically) to the court reporter a copy of the concordance from key depositions.

Attorney for Plaintiff(s) Attorney for Defendant(s)

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Based on the foregoing,

IT IS ORDERED that this Proposed Final Pretrial Order jointly submitted by the parties is hereby **APPROVED** and **ADOPTED** as the official Pretrial Order of this Court.

DATED this ____ day of _____, 200_.

Neil V. Wake
United States District Judge